

Office Memorandum • UNITED STATES GOVERNMENT

TO : NA - Mr. Hennrichinger *HH* DEPARTMENT OF STATE A/CDC/MR *FX*
 FROM : NA - Mr. Fraleigh *CF* REVIEWED BY *DD* DATE: June 30, 1953
 SUBJECT: Status of FCN Treaty

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The Japanese FCN treaty was received by the Senate on June 27.

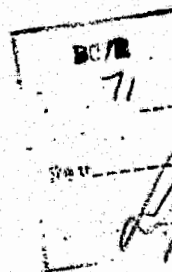
I called Herman Walker and was told that there have been no talks with Senate leaders subsequent to the talks held on June 16 and 17. On June 16 the Legal Adviser and Assistant Secretaries Morton and Waugh met with Senators Wiley, Hickenlooper and Humphrey. It was tentatively agreed on that day that Senator Hickenlooper would probably introduce a reservation to the Japanese treaty, probably patterned on the professions provision of the Danish FCN treaty. The professions provision of the Danish treaty reads as follows:

"With respect to professional activities, nationals of either Party shall be accorded national treatment within the territories of the other Party, except as to professions which, because they involve the performance of functions in a public capacity or in the interest of public health or safety, are state-licensed and reserved by statute exclusively to citizens of the country."

Senator Hickenlooper called Mr. Tate on June 17 to confirm the understanding that the reservation would be proposed and that the FCN treaty should be transmitted to the Senate without further delay. ✓

I called Miss Kirlin today and was told that no hearings have yet been scheduled on the FCN treaties. This means that the hearings will not take place at least for two weeks. Miss Kirlin said that it is still hoped that the Senate will act on the treaties in this Session. She said that the Senate has now pushed its target date for adjournment to August 12, or thereabouts.

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Memorandum of Conversation

DATE: June 30, 1953

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SUBJECT: FCN Treaty

PARTICIPANTS: Mr. Kanematsu, Japanese Foreign Office
Messrs. Setser and Walker, CP

COPIES TO: NA - Mr. Hemmendinger
L/E - Mr. Metzger
CP - Mr. Corse
Embassy, Tokyo

DEPARTMENT OF STATE A/CDC/MR	
REVIEWED BY <i>[Signature]</i>	DATE 9-30-82
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Mr. Kanematsu, who said he had spent the past few days in New York conferring with Japanese consular officers and businessmen, called to renew the discussions we had with him last week (see memo of conversation of June 22-23). The points he raised were:

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(1) Whether some arrangement could be made to alleviate difficulties Japanese businessmen were having with the immigration authorities, pending ratification of the treaty. We advised him that the limit of our competence was reflected in the treaty and that we were not aware of any special arrangements the Government had legal authority to make. We could only suggest that their Embassy take up through regular channels any specific cases they were interested in. However, it is necessary to recognize that the law does not allow the immigration authorities much discretionary latitude, and that they are obliged to apply the law as written; also that Japanese businessmen are in no different situation from that of other non-treaty countries outside the Western Hemisphere.

(2) Confirmation of previous statement regarding Article XXI, paragraph 3, and its relation to GATT policy.

(3) Rumor that California Bar Association was asking for a reservation to Article VIII, paragraph 2. We said there was

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considerable talk about a reservation to this provision, as part of a larger debate over a proposed Constitutional amendment to restrict the treaty power, but that the decision was entirely up to the Senate, a body which is completely independent of the Executive. He then wanted to know when we would be able to inform the Japanese Government for certain whether there was going to be a reservation and in what form; and we replied that the Department would be in a position to do so when the Senate had reached its decision. We had hopes that the Senate would act on all the pending treaties this session; and we expected that whatever decision was made would be general for all relevant treaties. He wanted to know whether any other reservations were possible; and we said that this is the only one we had heard about so far, but that the Senate made up its own mind about reservations. As to his further question regarding procedure for handling a reservation, if adopted, we said it could be a sort of addendum to the treaty--either an exchange of notes or a provision in the protocol of exchange of ratifications.

(4) Comparison between the second sentence of Article VII (2) and other recent treaties. We showed how this provision is a more explicit and categorical statement of a principle already embodied in several other treaties (e.g., Article VI (4) and Protocol 5 of Colombia treaty).

Mr. Kanematsu said he was departing tonight for Tokyo, and did not repeat his earlier prediction that the Japanese Embassy would be coming in with more questions.

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